



General Assembly

February Session, 2008

Amendment

LCO No. 4747

HB0590804747HDO

Offered by:

REP. VILLANO, 91st Dist.

SEN. HARRIS, 5th Dist.

REP. ORANGE, 48th Dist.

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To: Subst. House Bill No. 5908

File No. 481

Cal. No. 265

**"AN ACT CONCERNING PROCEEDINGS AND OPERATIONS OF
THE DEPARTMENT OF CHILDREN AND FAMILIES."**

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Subsection (b) of section 17a-28 of the 2008 supplement to
4 the general statutes is repealed and the following is substituted in lieu
5 thereof (*Effective October 1, 2008*):

6 (b) Notwithstanding the provisions of section 1-210 of the 2008
7 supplement to the general statutes, 1-211 or 1-213, records maintained
8 by the department shall be confidential and shall not be disclosed,
9 unless the department receives written consent from the person or as
10 provided in this section. [Such records of any person may only be
11 disclosed, in whole or in part, to any individual, agency, corporation or
12 organization with the consent of the person or as provided in this

13 section.] Any unauthorized disclosure shall be punishable by a fine of
14 not more than one thousand dollars or imprisonment for not more
15 than one year, or both. Any employee of the department who in the
16 ordinary course of such person's employment has reasonable cause to
17 suspect or believe that another employee has engaged in the
18 unauthorized disclosure of records shall report in writing such
19 unauthorized disclosure of records to the commissioner. The report
20 shall include the name of the person disclosing the information, and
21 the nature of the information disclosed and to whom it was disclosed,
22 if known.

23 Sec. 2. Subdivision (1) of subsection (b) of section 4-61dd of the
24 general statutes is repealed and the following is substituted in lieu
25 thereof (*Effective October 1, 2008*):

26 (b) (1) No state officer or employee, as defined in section 4-141, no
27 quasi-public agency officer or employee, no officer or employee of a
28 large state contractor and no appointing authority shall take or
29 threaten to take any personnel action against any state or quasi-public
30 agency employee or any employee of a large state contractor in
31 retaliation for such employee's or contractor's disclosure of
32 information to (A) an employee of the Auditors of Public Accounts or
33 the Attorney General under the provisions of subsection (a) of this
34 section; (B) an employee of the state agency or quasi-public agency
35 where such state officer or employee is employed; (C) an employee of
36 a state agency pursuant to a mandated reporter statute or pursuant to
37 subsection (b) of section 17a-28 of the 2008 supplement to the general
38 statutes, as amended by this act; or (D) in the case of a large state
39 contractor, an employee of the contracting state agency concerning
40 information involving the large state contract.

41 Sec. 3. Section 46b-129 of the 2008 supplement to the general statutes
42 is repealed and the following is substituted in lieu thereof (*Effective*
43 *from passage*):

44 (a) Any selectman, town manager, or town, city or borough welfare

45 department, any probation officer, or the Commissioner of Social
46 Services, the Commissioner of Children and Families or any child-
47 caring institution or agency approved by the Commissioner of
48 Children and Families, a child or such child's representative or
49 attorney or a foster parent of a child, having information that a child or
50 youth is neglected, uncared-for or dependent, may file with the
51 Superior Court that has venue over such matter a verified petition
52 plainly stating such facts as bring the child or youth within the
53 jurisdiction of the court as neglected, uncared-for or dependent, within
54 the meaning of section 46b-120 of the 2008 supplement to the general
55 statutes, the name, date of birth, sex and residence of the child or
56 youth, the name and residence of such child's parents or guardian, and
57 praying for appropriate action by the court in conformity with the
58 provisions of this chapter. Upon the filing of such a petition, except as
59 otherwise provided in subsection (k) of section 17a-112, the court shall
60 cause a summons to be issued requiring the parent or parents or the
61 guardian of the child or youth to appear in court at the time and place
62 named, which summons shall be served not less than fourteen days
63 before the date of the hearing in the manner prescribed by section 46b-
64 128, and the court shall further give notice to the petitioner and to the
65 Commissioner of Children and Families of the time and place when
66 the petition is to be heard not less than fourteen days prior to the
67 hearing in question.

68 (b) If it appears from the specific allegations of the petition and
69 other verified affirmations of fact accompanying the petition and
70 application, or subsequent thereto, that there is reasonable cause to
71 believe that (1) the child or youth is suffering from serious physical
72 illness or serious physical injury or is in immediate physical danger
73 from the child's or youth's surroundings, and (2) that as a result of said
74 conditions, the child's or youth's safety is endangered and immediate
75 removal from such surroundings is necessary to ensure the child's or
76 youth's safety, the court shall either (A) issue an order to the parents or
77 other person having responsibility for the care of the child or youth to
78 [appear] show cause at such time as the court may designate to

79 determine whether the court should vest [in some suitable agency or
80 person] the child's or youth's temporary care and custody in some
81 suitable agency or person, including, but not limited to, a person
82 related to the child or youth by blood or marriage pending disposition
83 of the petition, or (B) issue an order ex parte vesting [in some suitable
84 agency or person] the child's or youth's temporary care and custody in
85 some suitable agency or person, including, but not limited to, a person
86 related to the child or youth by blood or marriage. A preliminary
87 hearing on any ex parte custody order or order to appear issued by the
88 court shall be held not later than ten days after the issuance of such
89 order. The service of such orders may be made by any officer
90 authorized by law to serve process, or by any probation officer
91 appointed in accordance with section 46b-123, investigator from the
92 Department of Administrative Services, state or local police officer or
93 indifferent person. Such orders shall include a conspicuous notice to
94 the respondent written in clear and simple language containing at least
95 the following information: (i) That the order contains allegations that
96 conditions in the home have endangered the safety and welfare of the
97 child or youth; (ii) that a hearing will be held on the date on the form;
98 (iii) that the hearing is the opportunity to present the parents' position
99 concerning the alleged facts; (iv) that an attorney will be appointed for
100 parents who cannot afford an attorney; (v) that such parents may
101 apply for a court-appointed attorney by going in person to the court
102 address on the form and are advised to go as soon as possible in order
103 for the attorney to prepare for the hearing; (vi) that such parents can
104 request the Department of Children and Families to investigate the
105 possibility of temporarily placing the child or youth with a relative
106 related to the child or youth by blood or marriage who might serve as
107 a licensed foster parent, certified relative caregiver or temporary
108 custodian for such child or youth; and [(vi)] (vii) if such parents have
109 any questions concerning the case or appointment of counsel, any such
110 parent is advised to go to the court or call the clerk's office at the court
111 as soon as possible. Upon application for appointed counsel, the court
112 shall promptly determine eligibility and, if the respondent is eligible,
113 promptly appoint counsel. The expense for any temporary care and

114 custody shall be paid by the town in which such child or youth is at
115 the time residing, and such town shall be reimbursed for such expense
116 by the town found liable for the child's or youth's support, except that
117 where a state agency has filed a petition pursuant to the provisions of
118 subsection (a) of this section, the agency shall pay such expense. The
119 agency shall give primary consideration to placing the child or youth
120 in the town where such child or youth resides. The agency shall file in
121 writing with the clerk of the court the reasons for placing the child or
122 youth in a particular placement outside the town where the child or
123 youth resides. Upon issuance of an ex parte order, the court shall
124 provide to the commissioner and the parent or guardian specific steps
125 necessary for each to take to address the ex parte order for the parent
126 or guardian to retain or regain custody of the child or youth. Upon the
127 issuance of such order, or not later than sixty days after the issuance of
128 such order, the court shall make a determination whether the
129 Department of Children and Families made reasonable efforts to keep
130 the child or youth with his or her parents or guardian prior to the
131 issuance of such order and, if such efforts were not made, whether
132 such reasonable efforts were not possible, taking into consideration the
133 child's or youth's best interests, including the child's or youth's health
134 and safety.

135 [(c) In any proceeding under this section, any grandparent of the
136 child may make a motion to intervene and the court shall grant such
137 motion except for good cause shown. Upon the granting of such
138 motion, such grandparent may appear by counsel or in person.]

139 [(d)] (c) The preliminary hearing on the order of temporary custody
140 or order to appear or the first hearing on a petition filed pursuant to
141 subsection (a) of this section shall be held in order for the court to: (1)
142 Advise the parent or guardian of the allegations contained in all
143 petitions and applications that are the subject of the hearing and the
144 parent's or guardian's right to counsel pursuant to subsection (b) of
145 section 46b-135 of the 2008 supplement to the general statutes; (2)
146 assure that an attorney, and where appropriate, a separate guardian ad
147 litem has been appointed to represent the child or youth in accordance

148 with subsection (b) of section 46b-123e of the 2008 supplement to the
149 general statutes and sections 46b-129a and 46b-136 of the 2008
150 supplement to the general statutes; (3) upon request, appoint an
151 attorney to represent the respondent when the respondent is unable to
152 afford representation, in accordance with subsection (b) of section 46b-
153 123e of the 2008 supplement to the general statutes; (4) advise the
154 parent or guardian of the right to a hearing on the petitions and
155 applications, to be held not later than ten days after the date of the
156 preliminary hearing if the hearing is pursuant to an order of temporary
157 custody or an order to show cause; (5) accept a plea regarding the truth
158 of such allegations; (6) make any interim orders, including visitation,
159 that the court determines are in the best interests of the child or youth.
160 The court, after a hearing pursuant to this subsection, shall order
161 specific steps the commissioner and the parent or guardian shall take
162 for the parent or guardian to regain or to retain custody of the child or
163 youth; (7) take steps to determine the identity of the father of the child
164 or youth, including ordering genetic testing, if necessary, and order
165 service of the petition and notice of the hearing date, if any, to be made
166 upon him; (8) if the person named as the father appears, and admits
167 that he is the father, provide him and the mother with the notices that
168 comply with section 17b-27 and provide them with the opportunity to
169 sign a paternity acknowledgment and affirmation on forms that
170 comply with section 17b-27. Such documents shall be executed and
171 filed in accordance with chapter 815y and a copy delivered to the clerk
172 of the superior court for juvenile matters; [and] (9) in the event that the
173 person named as a father appears and denies that he is the father of the
174 child or youth, advise him that he may have no further standing in any
175 proceeding concerning the child, and either order genetic testing to
176 determine paternity or direct him to execute a written denial of
177 paternity on a form promulgated by the Office of the Chief Court
178 Administrator. Upon execution of such a form by the putative father,
179 the court may remove him from the case and afford him no further
180 standing in the case or in any subsequent proceeding regarding the
181 child or youth until such time as paternity is established by formal
182 acknowledgment or adjudication in a court of competent jurisdiction;

183 (10) identify any person or persons related to the child or youth by
184 blood or marriage residing in this state who might serve as licensed
185 foster parents, certified relative caregivers or temporary custodians
186 and order the Commissioner of Children and Families to investigate
187 and determine, not later than thirty days after the preliminary hearing,
188 the appropriateness of placement of the child or youth with such
189 relative or relatives; and (11) in accordance with the provisions of the
190 Interstate Compact on the Placement of Children pursuant to section
191 17a-175, identify any person or persons related to the child or youth by
192 blood or marriage residing out of state who might serve as licensed
193 foster parents, certified relative caregivers or temporary custodians,
194 and order the Commissioner of Children and Families to investigate
195 and determine, within a reasonable time, the appropriateness of
196 placement of the child or youth with such relative or relatives.

197 (d) (1) (A) If not later than thirty days after the preliminary hearing,
198 or within a reasonable time when a relative resides out of state, the
199 Commissioner of Children and Families determines that there is not a
200 suitable person related to the child or youth by blood or marriage who
201 can be licensed as a foster parent or certified as a relative caregiver or
202 serve as a temporary custodian, and the court has not granted
203 temporary custody to a person related to the child or youth by blood
204 or marriage, any person related to the child by blood or marriage may
205 file, not later than ninety days after the date of the preliminary hearing,
206 a motion to intervene for the limited purpose of moving for temporary
207 custody of such child or youth. If a motion to intervene is timely filed,
208 the court shall grant such motion except for good cause shown.

209 (B) Any person related to a child or youth may file a motion to
210 intervene for purposes of seeking temporary custody of a child or
211 youth more than ninety days after the date of the preliminary hearing.
212 The granting of such motion shall be solely in the court's discretion.

213 (C) A relative shall appear in person, with or without counsel, and
214 shall not be entitled to court appointed counsel or the assignment of
215 counsel by the Chief Child Protection Attorney except as provided in

216 section 46b-136.

217 (2) Upon the granting of intervenor status to such relative of the
218 child or youth, the court shall issue an order directing the
219 Commissioner of Children and Families to conduct a home study of
220 such relative and to file a written report with the court not later than
221 forty days after such order, unless such relative resides out of state, in
222 which case the home study shall be ordered and requested in
223 accordance with the provisions of the Interstate Compact on the
224 Placement of Children, pursuant to section 17a-175. Upon receipt of
225 the home study, the court shall schedule a hearing on such relative's
226 motion for temporary custody not later than fifteen days after the
227 receipt of the home study. If the Commissioner of Children and
228 Families, the child's or youth's attorney or guardian ad litem, or the
229 parent or guardian objects to the vesting of temporary custody in such
230 relative, the agency or person objecting at such hearing must prove by
231 a fair preponderance of the evidence that granting temporary custody
232 of the child or youth to such relative would not be in the best interests
233 of such child or youth.

234 (3) If the court grants such relative temporary custody, during the
235 period of such temporary custody, such relative shall be subject to
236 orders of the court, including, but not limited to, providing for the care
237 and supervision of such child or youth and cooperating with the
238 Commissioner of Children and Families in the implementation of
239 treatment and permanency plans and services for such child or youth.
240 The court may, on motion of any party or the court's own motion, after
241 notice and a hearing, terminate such relative's intervenor status if such
242 relative's participation in the case is no longer warranted or necessary.

243 (4) Any person related to a child or youth may file a motion to
244 intervene for purposes of seeking permanent custody of a child or
245 youth more than ninety days after the date of the preliminary hearing.
246 The granting of such motion to intervene shall be solely in the court's
247 discretion.

248 (e) If any parent or guardian fails, after service of such order, to
249 appear at the preliminary hearing, the court may enter or sustain an
250 order of temporary custody.

251 (f) Upon request, or upon its own motion, the court shall schedule a
252 hearing on the order for temporary custody or the order to show cause
253 to be held not later than ten days after the date of the preliminary
254 hearing. Such hearing shall be held on consecutive days except for
255 compelling circumstances or at the request of the parent or guardian.

256 (g) At a contested hearing on the order for temporary custody or
257 order to appear, credible hearsay evidence regarding statements of the
258 child or youth made to a mandated reporter or to a parent may be
259 offered by the parties and admitted by the court upon a finding that
260 the statement is reliable and trustworthy and that admission of such
261 statement is reasonably necessary. A signed statement executed by a
262 mandated reporter under oath may be admitted by the court without
263 the need for the mandated reporter to appear and testify unless called
264 by a respondent or the child, provided the statement: (1) Was provided
265 at the preliminary hearing and promptly upon request to any counsel
266 appearing after the preliminary hearing; (2) reasonably describes the
267 qualifications of the reporter and the nature of his contact with the
268 child; and (3) contains only the direct observations of the reporter, and
269 statements made to the reporter that would be admissible if the
270 reporter were to testify to them in court and any opinions reasonably
271 based thereupon. If a respondent or the child gives notice at the
272 preliminary hearing that he intends to cross-examine the reporter, the
273 person filing the petition shall make the reporter available for such
274 examination at the contested hearing.

275 (h) If any parent or guardian fails, after due notice of the hearing
276 scheduled pursuant to subsection (g) of this section and without good
277 cause, to appear at the scheduled date for a contested hearing on the
278 order of temporary custody or order to appear, the court may enter or
279 sustain an order of temporary custody.

280 (i) When a petition is filed in said court for the commitment of a
281 child or youth, the Commissioner of Children and Families shall make
282 a thorough investigation of the case and shall cause to be made a
283 thorough physical and mental examination of the child or youth if
284 requested by the court. The court after hearing may also order a
285 thorough physical or mental examination, or both, of a parent or
286 guardian whose competency or ability to care for a child or youth
287 before the court is at issue. The expenses incurred in making such
288 physical and mental examinations shall be paid as costs of
289 commitment are paid.

290 (j) Upon finding and adjudging that any child or youth is uncared-
291 for, neglected or dependent, the court may commit such child or youth
292 to the Commissioner of Children and Families. Such commitment shall
293 remain in effect until further order of the court, except that such
294 commitment may be revoked or parental rights terminated at any time
295 by the court, or the court may vest such child's or youth's care and
296 personal custody in any private or public agency that is permitted by
297 law to care for neglected, uncared-for or dependent children or youths
298 or with any other person or persons found to be suitable and worthy of
299 such responsibility by the court, including, but not limited to, any
300 relative of such child or youth by blood or marriage. If the court
301 determines that the commitment should be revoked and the child's or
302 youth's personal custody should vest in someone other than the
303 respondent parent, parents or guardian, or if parental rights are
304 terminated at any time, there shall be a rebuttable presumption that an
305 award of custody or guardianship upon revocation to, or adoption
306 upon termination of parental rights by, any relative who is licensed as
307 a foster parent or certified as a relative caregiver for such child or
308 youth, or who is, pursuant to an order of the court, the temporary
309 custodian of the child or youth at the time of the revocation or
310 termination, shall be in the best interests of the child or youth and that
311 such relative is a suitable and worthy person to assume custody and
312 guardianship upon revocation or to adopt such child or youth upon
313 termination of parental rights, unless it is proven by a preponderance

314 of the evidence that an award of custody or guardianship to, or an
315 adoption by, such relative would not be in the child's or youth's best
316 interests and such relative is not a suitable and worthy person. The
317 court shall order specific steps that the parent must take to facilitate
318 the return of the child or youth to the custody of such parent. The
319 commissioner shall be the guardian of such child or youth for the
320 duration of the commitment, provided the child or youth has not
321 reached the age of eighteen years or, in the case of a child or youth in
322 full-time attendance in a secondary school, a technical school, a college
323 or a state-accredited job training program, provided such child or
324 youth has not reached the age of twenty-one years, by consent of such
325 youth, or until another guardian has been legally appointed, and in
326 like manner, upon such vesting of the care of such child or youth, such
327 other public or private agency or individual shall be the guardian of
328 such child or youth until such child or youth has reached the age of
329 eighteen years or, in the case of a child or youth in full-time attendance
330 in a secondary school, a technical school, a college or a state-accredited
331 job training program, until such child or youth has reached the age of
332 twenty-one years or until another guardian has been legally appointed.
333 The commissioner may place any child or youth so committed to the
334 commissioner in a suitable foster home or in the home of a person
335 related by blood or marriage to such child or youth or in a licensed
336 child-caring institution or in the care and custody of any accredited,
337 licensed or approved child-caring agency, within or without the state,
338 provided a child shall not be placed outside the state except for good
339 cause and unless the parents or guardian of such child are notified in
340 advance of such placement and given an opportunity to be heard, or in
341 a receiving home maintained and operated by the Commissioner of
342 Children and Families. In placing such child or youth, the
343 commissioner shall, if possible, select a home, agency, institution or
344 person of like religious faith to that of a parent of such child or youth,
345 if such faith is known or may be ascertained by reasonable inquiry,
346 provided such home conforms to the standards of said commissioner
347 and the commissioner shall, when placing siblings, if possible, place
348 such children together. As an alternative to commitment, the court

349 may place the child or youth in the custody of the parent or guardian
350 with protective supervision by the Commissioner of Children and
351 Families subject to conditions established by the court. Upon the
352 issuance of an order committing the child or youth to the
353 Commissioner of Children and Families, or not later than sixty days
354 after the issuance of such order, the court shall determine whether the
355 Department of Children and Families made reasonable efforts to keep
356 the child or youth with his or her parents or guardian prior to the
357 issuance of such order and, if such efforts were not made, whether
358 such reasonable efforts were not possible, taking into consideration the
359 child's or youth's best interests, including the child's or youth's health
360 and safety.

361 (k) (1) Nine months after placement of the child or youth in the care
362 and custody of the commissioner pursuant to a voluntary placement
363 agreement, or removal of a child or youth pursuant to section 17a-101g
364 or an order issued by a court of competent jurisdiction, whichever is
365 earlier, the commissioner shall file a motion for review of a
366 permanency plan. Nine months after a permanency plan has been
367 approved by the court pursuant to this subsection, the commissioner
368 shall file a motion for review of the permanency plan. Any party
369 seeking to oppose the commissioner's permanency plan, including a
370 relative of a child or youth by blood or marriage who has intervened
371 pursuant to subsection (d) of this section and is licensed as a foster
372 parent or certified as a relative caregiver for such child or youth or is
373 vested with such child's or youth's temporary custody by order of the
374 court, shall file a motion in opposition not later than thirty days after
375 the filing of the commissioner's motion for review of the permanency
376 plan, which motion shall include the reason therefor. A permanency
377 hearing on any motion for review of the permanency plan shall be held
378 not later than ninety days after the filing of such motion. The court
379 shall hold evidentiary hearings in connection with any contested
380 motion for review of the permanency plan. The commissioner shall
381 have the burden of proving that the proposed permanency plan is in
382 the best interests of the child or youth. After the initial permanency

383 hearing, subsequent permanency hearings shall be held not less
384 frequently than every twelve months while the child or youth remains
385 in the custody of the Commissioner of Children and Families. The
386 court shall provide notice to the child or youth, and the parent or
387 guardian of such child or youth of the time and place of the court
388 hearing on any such motion not less than fourteen days prior to such
389 hearing.

390 (2) At a permanency hearing held in accordance with the provisions
391 of subdivision (1) of this subsection, the court shall approve a
392 permanency plan that is in the best interests of the child or youth and
393 takes into consideration the child's or youth's need for permanency.
394 The child's or youth's health and safety shall be of paramount concern
395 in formulating such plan. Such permanency plan may include the goal
396 of (A) revocation of commitment and reunification of the child or
397 youth with the parent or guardian, with or without protective
398 supervision; (B) transfer of guardianship; (C) long-term foster care
399 with a relative licensed as a foster parent or certified as a relative
400 caregiver; (D) adoption and filing of termination of parental rights; or
401 (E) such other planned permanent living arrangement ordered by the
402 court, provided the Commissioner of Children and Families has
403 documented a compelling reason why it would not be in the best
404 interest of the child or youth for the permanency plan to include the
405 goals in subparagraphs (A) to (D), inclusive, of this subdivision. Such
406 other planned permanent living arrangement may include, but not be
407 limited to, placement of a child or youth in an independent living
408 program or long term foster care with an identified foster parent.

409 (3) At a permanency hearing held in accordance with the provisions
410 of subdivision (1) of this subsection, the court shall review the status of
411 the child, the progress being made to implement the permanency plan,
412 determine a timetable for attaining the permanency plan, determine
413 the services to be provided to the parent if the court approves a
414 permanency plan of reunification and the timetable for such services,
415 and determine whether the commissioner has made reasonable efforts
416 to achieve the permanency plan. The court may revoke commitment if

417 a cause for commitment no longer exists and it is in the best interests of
418 the child or youth.

419 (4) If the court approves the permanency plan of adoption: (A) The
420 Commissioner of Children and Families shall file a petition for
421 termination of parental rights not later than sixty days after such
422 approval if such petition has not previously been filed; (B) the
423 commissioner may conduct a thorough adoption assessment and
424 child-specific recruitment; and (C) the court may order that the child
425 be photo-listed within thirty days if the court determines that such
426 photo-listing is in the best interest of the child. As used in this
427 subdivision, "thorough adoption assessment" means conducting and
428 documenting face-to-face interviews with the child, foster care
429 providers and other significant parties and "child specific recruitment"
430 means recruiting an adoptive placement targeted to meet the
431 individual needs of the specific child, including, but not limited to, use
432 of the media, use of photo-listing services and any other in-state or
433 out-of-state resources that may be used to meet the specific needs of
434 the child, unless there are extenuating circumstances that indicate that
435 such efforts are not in the best interest of the child.

436 (l) The Commissioner of Children and Families shall pay directly to
437 the person or persons furnishing goods or services determined by said
438 commissioner to be necessary for the care and maintenance of such
439 child or youth the reasonable expense thereof, payment to be made at
440 intervals determined by said commissioner; and the Comptroller shall
441 draw his or her order on the Treasurer, from time to time, for such part
442 of the appropriation for care of committed children or youths as may
443 be needed in order to enable the commissioner to make such
444 payments. The commissioner shall include in the department's annual
445 budget a sum estimated to be sufficient to carry out the provisions of
446 this section. Notwithstanding that any such child or youth has income
447 or estate, the commissioner may pay the cost of care and maintenance
448 of such child or youth. The commissioner may bill to and collect from
449 the person in charge of the estate of any child or youth aided under
450 this chapter, or the payee of such child's or youth's income, the total

451 amount expended for care of such child or youth or such portion
452 thereof as any such estate or payee is able to reimburse, provided the
453 commissioner shall not collect from such estate or payee any
454 reimbursement for the cost of care or other expenditures made on
455 behalf of such child or youth from (1) the proceeds of any cause of
456 action received by such child or youth; (2) any lottery proceeds due to
457 such child or youth; (3) any inheritance due to such child or youth; (4)
458 any payment due to such child or youth from a trust other than a trust
459 created pursuant to 42 USC 1396p, as amended from time to time; or
460 (5) the decedent estate of such child or youth.

461 (m) The commissioner, a parent or the child's attorney may file a
462 motion to revoke a commitment, and, upon finding that cause for
463 commitment no longer exists, and that such revocation is in the best
464 interests of such child or youth, the court may revoke the commitment
465 of such child or youth. No such motion shall be filed more often than
466 once every six months.

467 (n) Upon service on the parent, guardian or other person having
468 control of the child or youth of any order issued by the court pursuant
469 to the provisions of subsections (b) and (j) of this section, the child or
470 youth concerned shall be surrendered to the person serving the order
471 who shall forthwith deliver the child or youth to the person, agency,
472 department or institution awarded custody in the order. Upon refusal
473 of the parent, guardian or other person having control of the child or
474 youth to surrender the child or youth as provided in the order, the
475 court may cause a warrant to be issued charging the parent, guardian
476 or other person having control of the child or youth with contempt of
477 court. If the person arrested is found in contempt of court, the court
478 may order such person confined until the person complies with the
479 order, but for not more than six months, or may fine such person not
480 more than five hundred dollars, or both.

481 (o) A foster parent, prospective adoptive parent or relative caregiver
482 shall receive notice and have the right to be heard for the purposes of
483 this section in Superior Court in any proceeding concerning a foster

484 child living with such foster parent, prospective adoptive parent or
485 relative caregiver. A foster parent, prospective adoptive parent or
486 relative caregiver who has cared for a child or youth shall have the
487 right to be heard and comment on the best interests of such child or
488 youth in any proceeding under this section which is brought not more
489 than one year after the last day the foster parent, prospective adoptive
490 parent or relative caregiver provided such care.

491 (p) Upon motion of any sibling of any child committed to the
492 Department of Children and Families pursuant to this section, such
493 sibling shall have the right to be heard concerning visitation with, and
494 placement of, any such child. In awarding any visitation or modifying
495 any placement, the court shall be guided by the best interests of all
496 siblings affected by such determination.

497 (q) The provisions of section 17a-152, regarding placement of a child
498 from another state, and section 17a-175, regarding the Interstate
499 Compact on the Placement of Children, shall apply to placements
500 pursuant to this section.

501 Sec. 4. Section 45a-607 of the 2008 supplement to the general statutes
502 is repealed and the following is substituted in lieu thereof (*Effective*
503 *from passage*):

504 (a) (1) When application has been made for the removal of one or
505 both parents as guardians or of any other guardian of the person of a
506 minor child, or when an application has been made for the termination
507 of the parental rights of any parties who may have parental rights with
508 regard to any minor child, or when, in any proceeding the court has
509 reasonable grounds to believe that any minor child has no guardian of
510 his or her person, the court of probate in which the proceeding is
511 pending may issue an order awarding temporary custody of the minor
512 child to a person other than the parent or guardian, with or without
513 the parent's or guardian's consent, but such order may only be issued
514 in accordance with the provisions of this section. There shall be a
515 rebuttable presumption that the awarding of temporary custody to a

516 relative is in the best interests of such child or youth. This presumption
517 may be rebutted by clear and convincing evidence that such awarding
518 of custody is not in the best interests of such child or youth. As used in
519 this subsection and subsections (b) and (d) of this section, "relative"
520 means a person related to the child by blood or marriage.

521 (2) In any proceeding under this section, any relative of the minor
522 child may make a motion to intervene and the court shall grant such
523 motion except for good cause shown. Upon the granting of such
524 motion, such relative may appear by counsel or in person.

525 (b) In the case of a minor child in the custody of the parent or other
526 guardian, no application for custody of such minor child may be
527 granted ex parte, except in accordance with subdivision (2) of this
528 subsection. In the case of a minor child in the custody of a person other
529 than the parent or guardian, no application for custody may be
530 granted ex parte, except in accordance with subdivisions (1) to (3),
531 inclusive, of this subsection.

532 (1) An application for immediate temporary custody shall be
533 accompanied by an affidavit made by the custodian of such minor
534 child under penalty of false statement, stating the circumstances under
535 which such custody was obtained, the length of time the affiant has
536 had custody and specific facts which would justify the conclusion that
537 determination cannot await the hearing required by subsection (c) of
538 this section. Upon such application, the court may grant immediate
539 temporary custody to the affiant, a relative, or some other suitable
540 person if the court finds that: (A) The minor child was not taken or
541 kept from the parent, parents or guardian, and (B) there is a substantial
542 likelihood that the minor child will be removed from the jurisdiction
543 prior to a hearing under subsection (c) of this section, or (C) to return
544 the minor child to the parent, parents or guardian would place the
545 minor child in circumstances which would result in serious physical
546 illness or injury, or the threat thereof, or imminent physical danger
547 prior to a hearing under subsection (c) of this section.

548 (2) In the case of a minor child who is hospitalized as a result of
549 serious physical illness or serious physical injury, an application for
550 immediate temporary custody shall contain a certificate signed by two
551 physicians licensed to practice medicine in this state stating that (A)
552 the minor child is in need of immediate medical or surgical treatment,
553 the delay of which would be life threatening, (B) the parent, parents or
554 guardian of the minor child refuses or is unable to consent to such
555 treatment, and (C) determination of the need for temporary custody
556 cannot await notice of hearing. Upon such application, the court may
557 grant immediate temporary custody to a relative or some other
558 suitable person if it finds that (i) a minor child has suffered from
559 serious physical illness or serious physical injury and is in need of
560 immediate medical or surgical treatment, (ii) the parent, parents or
561 guardian refuses to consent to such treatment, and (iii) to delay such
562 treatment would be life threatening.

563 (3) If an order of temporary custody is issued ex parte, notice of the
564 hearing required by subsection (c) of this section shall be given
565 promptly, and the hearing shall be held [within] no later than five
566 business days [of] after the date of such ex parte order of temporary
567 custody, provided the respondent shall be entitled to continuance
568 upon request. Upon the issuance of an order granting temporary
569 custody of the minor child to the Commissioner of Children and
570 Families, or not later than sixty days after the issuance of such order,
571 the court shall make a determination whether the Department of
572 Children and Families made reasonable efforts to keep the minor child
573 with his or her parent, parents or guardian prior to the issuance of
574 such order and, if such efforts were not made, whether such
575 reasonable efforts were not possible, taking into consideration the
576 minor child's best interests, including the minor child's health and
577 safety. Upon issuance of an ex parte order of temporary custody, the
578 court shall promptly notify the Commissioner of Children and
579 Families, who shall cause an investigation to be made forthwith, in
580 accordance with section 17a-101g, and shall present the commissioner's
581 report to the court at the hearing on the application for temporary

582 custody. The hearing on an ex parte order of temporary custody shall
583 not be postponed, except with the consent of the respondent, or, if
584 notice cannot be given as required by this section, a postponement
585 may be ordered by the court for the purpose of a further order of
586 notice.

587 (c) Except as provided in subsection (b) of this section, upon receipt
588 of an application for temporary custody under this section, the court
589 shall promptly set the time and place for a hearing to be held on such
590 application. The court shall order notice of the hearing on temporary
591 custody to be given, at least five days prior to the date of the hearing,
592 to the Commissioner of Children and Families by first class mail and to
593 both parents and to the minor child, if over twelve years of age, by
594 personal service or service at the parent's usual place of abode or the
595 minor's usual place of abode, as the case may be, in accordance with
596 section 52-50, except that in lieu of personal service on, or service at the
597 usual place of abode of, a parent or the father of a minor child born out
598 of wedlock who is either an applicant or who signs under penalty of
599 false statement a written waiver of such service on a form provided by
600 the Probate Court Administrator, the court may order notice to be
601 given by first class mail at least five days prior to the date of the
602 hearing. If the whereabouts of the parents are unknown, or if such
603 delivery cannot reasonably be effected, then notice shall be ordered to
604 be given by publication. Such notice may be combined with the notice
605 under section 45a-609 of the 2008 supplement to the general statutes or
606 with the notice required under section 45a-716 of the 2008 supplement
607 to the general statutes. If the parents are not residents of the state or
608 are absent from the state, the court shall order notice to be given by
609 first class mail at least five days prior to the date of the hearing. If the
610 whereabouts of the parents are unknown, or if delivery cannot
611 reasonably be effected, the court may order notice to be given by
612 publication. Any notice by publication under this subsection shall be in
613 a newspaper which has a circulation at the last-known place of
614 residence of the parents. In either case, such notice shall be given at
615 least five days prior to the date of the hearing, except in the case of

616 notice of a hearing on immediate temporary custody under subsection
617 (b) of this section. If the applicant alleges that the whereabouts of a
618 respondent are unknown, such allegation shall be made under penalty
619 of false statement and shall also state the last-known address of the
620 respondent and the efforts which have been made by the applicant to
621 obtain a current address. The applicant shall have the burden of
622 ascertaining the names and addresses of all parties in interest and of
623 proving to the satisfaction of the court that the applicant used all
624 proper diligence to discover such names and addresses. Except in the
625 case of newspaper notice, such notice shall include: (1) The time and
626 place of the hearing, (2) a copy of the application for removal or
627 application for termination of parental rights, (3) a copy of the motion
628 for temporary custody, (4) any affidavit or verified petition filed with
629 the motion for temporary custody, (5) any other documents filed by
630 the applicant, (6) any other orders or notices made by the court of
631 probate, and (7) any request for investigation by the Department of
632 Children and Families or any other person or agency. Such notice shall
633 also inform the respondent of the right to have an attorney represent
634 the respondent and, if the respondent is unable to obtain or pay for an
635 attorney, the respondent may request the court of probate to appoint
636 an attorney to represent the respondent. Newspaper notice shall
637 include such facts as the court may direct.

638 (d) If, after hearing, the court finds by a fair preponderance of the
639 evidence (1) that the parent or other guardian has performed acts of
640 omission or commission as set forth in section 45a-610, and (2) that,
641 because of such acts, the minor child is suffering from serious physical
642 illness or serious physical injury, or the immediate threat thereof, or is
643 in immediate physical danger, so as to require that temporary custody
644 be granted, the court may order the custody of the minor child to be
645 given to one of the following, taking into consideration the standards
646 set forth in section 45a-617, as amended by this act, and subsection (a)
647 of this section: (A) [The] A relative of such minor child; (B) the
648 Commissioner of Children and Families; [(B)] (C) the board of
649 managers of any child-caring institution or organization; [(C)] (D) any

650 children's home or similar institution licensed or approved by the
651 Commissioner of Children and Families; or ~~[(D)]~~ (E) any other person.
652 The fact that an order of temporary custody may have been issued ex
653 parte under subsection (b) of this section shall be of no weight in a
654 hearing held under this subsection. The burden of proof shall remain
655 upon the applicant to establish the applicant's case. The court may
656 issue the order without taking into consideration the standards set
657 forth in this section and section 45a-610 if the parent or other guardian
658 consents to the temporary removal of the minor child, or the court
659 finds that the minor child has no guardian of his or her person. Upon
660 the issuance of an order giving custody of the minor child to the
661 Commissioner of Children and Families, or not later than sixty days
662 after the issuance of such order, the court shall make a determination
663 whether the Department of Children and Families made reasonable
664 efforts to keep the minor child with his or her parent, parents or
665 guardian prior to the issuance of such order and, if such efforts were
666 not made, whether such reasonable efforts were not possible, taking
667 into consideration the minor child's best interests, including the minor
668 child's health and safety.

669 (e) Such order for temporary custody shall be effective until
670 disposition of the application for removal of parents or guardians as
671 guardian or for termination of parental rights or until a guardian is
672 appointed for a minor child who has no guardian, unless modified or
673 terminated by the court of probate. Any respondent, temporary
674 custodian or attorney for the minor child may petition the court of
675 probate issuing such order at any time for modification or revocation
676 thereof, and such court shall set a hearing upon receipt of such petition
677 in the same manner as subsection (c) of this section. If the court finds
678 after such hearing that the conditions upon which it based its order for
679 temporary custody no longer exist, and that the conditions set forth in
680 subsection (b) of this section do not exist, then the order shall be
681 revoked and the minor child shall be returned to the custody of the
682 parent or guardian.

683 (f) A copy of any order issued under this section shall be mailed

684 immediately to the last known address of the parent or other guardian
685 from whose custody the minor child has been removed.

686 Sec. 5. Section 45a-617 of the general statutes is repealed and the
687 following is substituted in lieu thereof (*Effective October 1, 2008*):

688 When appointing a guardian or coguardians of the person of a
689 minor, the court shall take into consideration the following factors: (1)
690 The ability of the prospective guardian or coguardians to meet, on a
691 continuing day to day basis, the physical, emotional, moral and
692 educational needs of the minor; (2) the minor's wishes, if he or she is
693 over the age of twelve or is of sufficient maturity and capable of
694 forming an intelligent preference; (3) the existence or nonexistence of
695 an established relationship between the minor and the prospective
696 guardian or coguardians; and (4) the best interests of the child. There
697 shall be a rebuttable presumption that appointment of a grandparent
698 or other relative related by blood or marriage as a guardian is in the
699 best interests of the minor child.

700 Sec. 6. Subsection (a) of section 17a-11 of the 2008 supplement to the
701 general statutes is repealed and the following is substituted in lieu
702 thereof (*Effective October 1, 2008*):

703 (a) The commissioner may, in the commissioner's discretion, admit
704 to the department on a voluntary basis any child or youth who, in the
705 commissioner's opinion, could benefit from any of the services offered
706 or administered by, or under contract with, or otherwise available to,
707 the department. Application for voluntary admission shall be made in
708 writing by the parent or guardian of a child under fourteen years of
709 age or by such person himself or herself if he or she is a child fourteen
710 years of age or older or a youth. The fact that a parent has applied for
711 services or received services for his or her child through voluntary
712 admission shall not be used against the parent (1) in any investigation
713 conducted by the department in accordance with section 17a-101g, (2)
714 when making placement decisions for the child, (3) when making
715 foster care licensing determinations in accordance with section 17a-

716 114, or (4) in any court proceeding related to the placement of a minor
 717 relative of the parent."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2008</i>	17a-28(b)
Sec. 2	<i>October 1, 2008</i>	4-61dd(b)(1)
Sec. 3	<i>from passage</i>	46b-129
Sec. 4	<i>from passage</i>	45a-607
Sec. 5	<i>October 1, 2008</i>	45a-617
Sec. 6	<i>October 1, 2008</i>	17a-11(a)